

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 33833 of 2003(C)

PETITIONER:

**DR.KRISHNAN NAMBOODIRI M.S.,
CHIEF PHARMACY OFFICER, KERALA STATE
HOMEOPATHIC CO-OPERATIVE PHARMACY LTD.NO.T.432,
ALAPUZHA 688 521.**

**BY ADV. SRI.JOHN BRITTO,
SRI.C.A.RAJEEV.**

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
UNDER SECRETARY, HEALTH & FAMILY WELFARE (J)
DEPARTMENT, SECRETARIAT, TRIVANDRUM.**
- 2. THE KERALA STATE HOMEOPATHIC
CO-OPERATIVE PHARMACY LTD. NO.432, ALAPUZHA-21
REPRESENTED BY ITS CHAIRMAN.**

**BY ADV. SRI.CHERIYAN KURUVILLA,
GOVERNMENT PLEADER SMT. DEEPA.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.33833/2003:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE MEMO OF CHARGES DTD. 02/08/99 OF THE R.2.

EXT.P.2: COPY OF THE ENQUIRY REPORT DTD. 06/05/00 SUBMITTED BEFORE THE R.2.

EXT.P.3: COPY OF THE SHOW CAUSE NOTICE DTD. 12/06/00 OF THE R.2.

EXT.P.4: COPY OF THE REPLY DTD. 19/06/00 OF THE PETITIONER FILED BEFORE THE R.2.

EXT.P.5: COPY OF THE ORDER DTD. 12/07/00 OF THE R.2.

EXT.P.6: COPY OF THE REPORT DTD. 08/08/02 OF THE MANAGING DIRECTOR OF THE R.2.

EXT.P.7: COPY OF THE ORDER DTD. 05/11/2002 OF THE R.1.

EXT.P.8: COPY OF THE REPORT DTD. 25/05/2003 OF THE MANAGING DIRECTOR OF THE R.2.

EXT.P.9: COPY OF THE ORDER DTD. 21/07/03 OF THE R.1.

RESPONDENT'S EXHIBIT:

EXT.R2.A: COPY OF THE ORDER DTD. 26/08/1998 ISSUED BY THE KERALA STATE HOMEOPATHIC CO-OPERATIVE PHARMACY LTD.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.33833 of 2003

Dated 21st February, 2007.

J U D G M E N T

Petitioner is aggrieved since his suspension period from 13.7.1999 to 13.7.2000 has not been regularised as duty for all purposes. As per the impugned orders, the said period of suspension is regularised as duty for all purposes except for pay and allowances. Learned counsel appearing for the second respondent as well as the learned Government Pleader, referring to the respective counter affidavits submit that the petitioner had not been exonerated from all the charges. The punishment was dropped only on certain grounds. The theft of spirit from the pharmacy was due to dereliction of duty and negligence on the part of the petitioner, as reported by the Enquiry Officer, learned Government Pleader submits. There is no dispute that the petitioner was the lawful custodian of the spirit in the pharmacy and therefore, there is some substance in the allegation that there were supervisory laches on the part of the petitioner. That will be a sufficient consideration under Rule 56 Part I K.S.R. in the matter of regularisation of the suspension period. Petitioner apprehends

that even the subsistence allowance already paid to him would be recovered. It is made clear that since it is the allowance given to the petitioner to subsist during the disciplinary proceedings, there shall be no recovery of the allowance already paid to him. It is also clarified that he would be entitled to his normal increments etc. and what is denied is only actual pay.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

W.P.(C)No. of 2002

J U D G M E N T

Dated 21st February, 2007.